

REMARKS

I. Status of Claims

In the first office action dated September 22, 2004, the Examiner rejected claims 1-39. The Examiner also objected to claims 3, 29, 37 and 39. Applications responded to the first office action with a response and an amendment in which the original claims 1, 2, 3, 4, 6, 7, 8, 10, 11, 12, 13, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, and 37 were amended and new claims 39-56 submitted.

In the present office action, the Examiner rejected claims 1-56 as indicated herein. Claims 3, 39, 42, 46 and 51 have been amended. Claims 1-56 remain pending in the case.

II. Claim Rejections – 35 USC § 103

Requirements for Prima Facie Obviousness

The obligation of the Examiner to go forward and produce reasoning and evidence in support of obviousness under 35 U.S.C. §103 is clearly defined at M.P.E.P. §2142:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

M.P.E.P. §2143 sets out the three basic criteria that a patent examiner must satisfy to establish a *prima facie* case of obviousness necessary for establishing a rejection to a claim under 35 U.S.C. §103:

1. some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
2. a reasonable expectation of success; and

3. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a *prima facie* showing of obviousness under 35 U.S.C. §103 by the examiner (assuming there are no objections or other grounds for rejection), an Applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443 (Fed. Cir. 1992).

Thus, in order to support an obviousness rejection under 35 U.S.C. §103, the Examiner is obliged to produce evidence compelling a conclusion that each of the three aforementioned basic criteria has been met. If the Examiner fails to produce such a conclusion for each of the aforementioned criteria, the rejection must be withdrawn.

Anderson in view of Jain

Claim's 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 were rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Anderson, Jr. et al., "Anderson" (U.S. Patent No. 6,578,203) in view of Jain et al., "Jain" (US Patent No. 5,729, 471).

Regarding claims 1, 2, 3, 4, 6-10, 12, 13, 18-23, 26, 27, 35, 39 and 56, the Examiner argues that Anderson teaches capturing video images from more than one perspective of a venue-based activity using more than one video camera (citing column 2, lines 26-28 of Anderson) and processing the video images into venue-based data formatted for wireless transmission via a wireless network for use by more than one *hand held device* each having a display screen (citing column 5 lines 22-38 of Anderson). The Examiner also states that Anderson shows a user interface that allows the user to select the video and audio combination for display on the hand held device (citing column 5, lines 38-46 of Anderson).

The Examiner admits that Anderson fails to teach a display screen adapted for simultaneously viewing more than one perspective of venue-based data captured by more than one video camera, but argues that Jain et al does (Column

33, lines 61-67). The Examiner suggests that it would have been obvious to one of ordinary skill to use multiple cameras from different perspectives to display a plurality of different perspectives on one "hand held" device since it would just be a matter of having a display that is capable of displaying the multiple images simultaneously. The Applicants respectfully disagree with the Examiner's assessment of Anderson and Jain et al.

The Examiner's arguments fail for three important reasons: First, Anderson does not teach or suggest a "hand held device", but instead teaches a "head mounted display." Second, Anderson is limited because it can only view one video source/image at a time. Third, Jain et al only describes the use of physically wired computer workstations to view more than one video perspective at a time. The Jain et al workstations by their very nature are not capable of being hand held and would not be useful in a live venue.

The Examiner cited column 5 lines 22-38 of Anderson, arguing that column 5 lines 22-38 of Anderson teaches a "hand held" device like that claimed by Applicants' and taught in Applicants' specification. Applicants remind the Examiner that an inventor is permitted to act as his or her own lexicographer. The Applicants have specifically defined the term "hand held device" in their detailed specification. For example, in paragraph 2 of Applicants' specification the Applicants state that wireless electronic hand held devices include hand held devices such as Personal Digital Assistants (PDAs), portable hand held televisions, and data-enabled wireless telephones. On page 3, lines 11-22 of Applicants' specification, Applicants also stated that "...such limitations in venue environments can be solved through the use of hand held devices, such as PDAs, hand held televisions, data/video-enabled cellular telephones, and other hand held wireless video-enabled devices." On page 13, lines 23-24 of Applicants' specification, the Applicants also define a hand held device as being a hand held device, such as a Personal Digital Assistant (PDA), paging device, WAP-enabled mobile phone, or other such device.

Based on the lexicography of a hand held device as taught and defined by the Applicants' specification, a "head mounted display" such as HMD 104 described in Anderson's preferred embodiment of (i.e., see FIG. 4 of Anderson), is not the same

type of portable electronic device as that taught by Applicants' specification. Applicants also note that the HMD 104 is not a data-enabled wireless telephones, a PDA, a hand held television, a paging device, WAP-enabled mobile phone, etc. The Examiner has not indicated which portions of Anderson's specification teaches a "hand held" device as defined and taught by Applicants' specification wherein a "hand held" device is described as including PDAs, data-enabled wireless telephones, portable televisions, and the like. Applicants' description does not teach head mounted equipment, nor would Applicants' invention ever benefit from use of such a device.

Additionally, the Applicant notes that the preferred embodiment of Anderson teaches the HMD 104 by referring to another well known "head mounted" device from the prior art. Specifically, Anderson brings support for the HMD into his specification by referring to U.S. Patent No. 5,844,656 entitled "Head Mounted Display with Adjustment Components" by Ronzani et al, which is specifically incorporated by reference in Anderson (i.e., see column 25, lines 25-30). A reading of Ronzani et al reveals that HMD 104 is not in fact a hand held device. FIGS. 1-9 clearly teach a device that is "head mounted" and not a device that is "hand held". The HMD taught by Ronzani et al, like Anderson's, is attached to a person's head. As indicated at column 3, lines 39-65 of Ronzani et al, a headband 2 is utilized to attach the HMD 1 to a person's head. Additionally, Ronzani et al points out at column 2, lines 15-17 that it is "a further object of this invention to provide an adjustable HMD that is designed to be comfortably worn over a long period of time". Thus, the HMD taught by Ronzani et al and Anderson is worn by or attached to a person's head and does not constitute a hand held device during operation. The Anderson device is not a PDA, cellular telephone, a hand held television or the like, which is held in a person's hand during use.

Thus, it is clear from Ronazni et al, which is incorporated by reference into Anderson, that the HMD taught by Anderson is not a hand held device as claimed by Applicants' and specifically defined within their specification. In fact Ronzani et al also does not provide any teaching for a PDA, a web-enabled cellular telephone, a

wireless phone and/or a hand held television. There are significant legal differences between Anderson and Applicants' claimed invention.

As raised by Applicants third point, one must note that Jain does not provide the teaching or suggestion of a hand held device as claimed and taught by Applicants'. Jain does not teach a hand held device such as a PDA, wireless telephone and/or hand held television. Instead, Jain only teaches the use of workstations such as personal desktop computers. Jain et al when combined with Anderson does not teach or suggest the use of a hand held device such as a PDA, wireless telephone and/or hand held television to view more than one video perspective simultaneously on an interface. The Examiner has not provided evidence to the contrary. In fact, Jain only teaches away from the use of hand held devices. Jain instead focuses on the use of computer workstations, which are immobile devices with severe limitations that hand held devices such as PDAs can only now overcome given Applicants' nonobvious teachings. Jain clearly lacks utility in a live sports venue application because workstations cannot perform as hand held mobile devices.

Based on the foregoing, the Applicants submit that the rejection to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) based on the Jain and Anderson references fails under the first, second and third prongs of the aforementioned prima facie obviousness test. First, the Examiner has not identified the written suggestion or motivation in either Jain or Anderson, or in the knowledge generally available to one of ordinary skill in the art, to modify or combine them as argued. This is so particularly in light of the fact neither Jain nor Anderson, individually or in combination with one another teach a "hand held device" as taught by the lexicography in Applicants' specification. Second, the Examiner has not provided an explanation as to how a reasonable expectation of success for such a combination can exist. Third, the Examiner has not provided the teaching or suggestion of all the claim limitations of claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 using the published references Jain/Anderson when combined in the suggested manner.

Because the teaching, hint of or suggestion of a hand held device capable of simultaneous viewing more than one video perspective at a live venue as claimed and taught by Applicants' s is not provided by Anderson and/or Jain et al, either alone or in combination with one another, the Applicants respectfully traverse the rejection of claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a). Anderson and Jain et al are not combinable as a basis for rejecting the claims and they should therefore be allowed.

Regarding claims 15, 31 and 32, the Examiner admits that Anderson fails to teach an instant replay option for the users of his device, but argues that Jain does (citing column 18, lines 61-65 of Jain). The Examiner therefore asserts that it would be obvious to one of ordinary skill to add the instant replay option to their display since the instant replay is a minor change in the options menu a user could have to view the information that has already taken place at a later time. The Applicants respectfully disagree with this assessment and submit that the arguments presented above against the rejection to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) apply equally to the rejection to claims 15, 31, and 32. The Applicants note that column 18, lines 61-65 of Jain cited by the Examiner with regard to the issue of instant replays does not teach, hint at, suggest or describe a hand held device as taught by Applicants' invention. Thus, the Applicants submit that the rejection to claims 15, 31 and 32 is also traversed.

Regarding claim 37, the Examiner asserts that many of the limitations have been addressed in the above rejections. The Examiner argues that Anderson teaches a server, or network, for processing data representing the one video perspective captured by the more than one venue-based video camera for transmission to the at least one hand held device, where the at least one wireless hand held device is associated with a display screen for displaying the data (citing column 6, lines 48-55 of Anderson). The Applicants respectfully disagree with this assessment and submit that the arguments presented above against the rejection

to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) apply equally to the rejection to claim 37. The Applicants further submit that the arguments presented above by the Examiner with respect to claim 37 are irrelevant in light of the fact that neither Jain nor Anderson teach, hint at or suggest, individually or in combination with one another, a hand held device as taught and claimed by Applicants.

Anderson, Jain, Hendricks

The Examiner rejected claim's 5, 14, 16, 17, 24, 33 and 34 under 35 U.S.C. 103(a) as being unpatentable over Anderson, Jr. et al. in view of Jain and in further view of Hendricks et al, "Hendricks" (US Patent No. 6,675,386). The rejection is respectfully traversed.

Regarding claims 5 and 24, the Examiner admits that Anderson and Jain fail to teach a camera that takes wide-angle video data, but argues that Hendricks does (citing column 11, lines 13-21 of Hendricks). The Examiner asserts that it would have been obvious to one of ordinary skill to make at least one of their cameras at an event a wide angle camera in order to capture a wider viewing range since the wide angle lens just provides a wider viewing scene of an event.

The Examiner also argues that the high-resolution part of the wide-angle video data would be a minor upgrade to the video camera and would only require one to spend the additional money for the high-resolution camera. The Examiner therefore asserts that it would be obvious to one of ordinary skill to have high-resolution wide-angle video data as opposed to just wide-angle video data. (The Examiner cited "Official Notice").

Regarding claims 16, 17, 33 and 34, the Examiner admits that Anderson and Jain fail to include advertisements and promotional information in his device, but argues that Hendricks et al. does (citing column 16, lines 37-43 and Figure 12 of Hendricks). The Examiner asserts that it would be obvious to one of ordinary skill

to add these advertisements or promotional information if one wanted to disrupt the broadcast of their event to advertise their product or anything else of the case since one would be able to include advertisements and promotional information to viewers very easily if they were broadcasting their signal over a wireless communication network to many viewers.

Regarding claim 14, the Examiner stated that the use of the portable device taught by Anderson is to be used while attending an event. The Examiner admits that Anderson and Jain fail to specifically teach that the combined signal sent to the receiver is of real time data, but argues that Hendricks et al. does (citing column 9, lines 24-30 of Hendricks). The Examiner argues that it would have been obvious to one of ordinary skill to have the signal be real time data so that the user at the event can view the image as it is happening since a real time image would be necessary if one were attending the event of the video image you are receiving.

The Applicants respectfully disagree with this assessment and note that the arguments presented above against the rejection to claims against the rejection to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) based on Anderson and Jain apply equally to the rejection to the rejection to claims 5, 14, 16, 17, 24, 33 and 34 under 35 U.S.C. 103(a) based on Anderson, Jain and Hendricks. The Applicants submit that column 11, lines 13-21; column 16, lines 37-43 and Figure 12; and column 9, lines 24-30 of Hendricks of cited by the Examiner along with any "official notice" thereof are irrelevant in light of the fact that Anderson and Jain do not teach, suggest or disclose a hand held device as taught by Applicants' invention as indicated above. Because, Anderson and Jain do not teach such a hand held device, it would be improper to combine Anderson and Jain with another reference as a basis for arguing that the other reference (i.e., Hendricks) in combination with Anderson and Jain teaches or suggests all of the claim limitations in Applicants' invention, particularly when the Examiner has not provided a motivation based on all three references for doing so.

Anderson, Jain, McClintock

Claim 25 was rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Jain and in further view of McClintock (US Patent No. 5,598,208). The rejection is respectfully traversed.

The Examiner admits that Anderson and Jain fail to teach the use of at least one wireless video camera in their device, but argues that McClintock does (citing column 5, lines 9-14 of McClintock). The Examiner asserts that it would be obvious to one of ordinary skill to use a wireless camera in an event where a wireless camera is the only option available since the use of a wireless video camera performs the same as another camera with wires.

The Applicants respectfully disagree with this assessment and note that the arguments presented above against the rejection to claims against the rejection to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) based on Anderson and Jain apply equally to the rejection to the rejection to claim 25 under 35 U.S.C. 103(a) based on Anderson, Jain and McClintock. The Applicants submit that column 5, lines 9-14 of McClintock cited by the Examiner is irrelevant in light of the fact that Anderson, Jain and McClintock do not teach, suggest or disclose a hand held device as taught by Applicants' invention as indicated above. Because Anderson, Jain and McClintock do not teach such a hand held device, it would be improper to combine Anderson, Jain and McClintock as a basis for arguing that the combination thereof teaches all of the claim limitations of dependent claim 25, which all includes the claim limitations of claim 21.

Anderson, Jain, Blanchard

The Examiner rejected claims 11, 28-30, 36, 38, 41 and 42 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Jain and in further view of Blanchard et al., "Blanchard" (US Patent No. 6,782,102).

The Examiner admits Anderson and Jain fail to teach a security system in his device to be used over the transmission of his signals that includes an encryption module that encrypts his data prior to transmission, but argues that Blanchard does (citing column 2, lines 9-22 of Blanchard). The Examiner argues that Blanchard shows that it is common and well known to use encryption/decryption algorithms. The Examiner asserts that it would be obvious to one of ordinary skill to apply a security method that uses an encryption algorithm to secure the transmitted data.

Regarding claims 11 and 28, the Examiner argues that Anderson and Jain fail to specifically teach where the display screen comprises a touch sensitive display operable by the user selection, but argues that Blanchard does (citing column 2, lines 35-54 of Blanchard). The Examiner argues that it would have been obvious to one of ordinary skill to implement a touch screen for selection as opposed to touching the designated buttons that make the selection in the first place since the touch screen is just a variation of how the user makes their selection of multiple views. The Examiner also asserts that the only difference is touching a button as opposed to the screen.

Regarding claims 41 and 42, the Examiner asserts that all of the limitations have been addressed in the above rejections.

The Applicants respectfully disagree with this assessment and note that the arguments presented above against the rejection to claims against the rejection to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) based on Anderson and Jain apply equally to the rejection to the rejection to claims 11, 28-30, 36, 38, 41 and 42 under 35 U.S.C. 103(a) based on Anderson, Jain and Blanchard. The Applicants submit that column 2, lines 9-22 and column 2, lines 35-54 of Blanchard cited by the Examiner is irrelevant in light of the fact that Anderson, Jain and Blanchard, individually or in combination with one another do not teach, suggest or describe a hand held device as taught by Applicants' invention as indicated above. Because Anderson, Jain and Blanchard do not teach such a hand held device, it would be improper to combine Anderson, Jain and Blanchard as a basis for arguing that the combination thereof teaches all of the

claim limitations of claims 11, 28-30, 36, 38, 41 and 42, including any claims upon which claims 11, 28-30, 36, 38, 41 and 42 depend.

Anderson, Jain, Ausems

The Examiner rejected claims 40, 43 and 45-54 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Jain and in further view of Ausems et al., "Ausems" (US 6,434,403).

Regarding claim's 40 and 43, Anderson and Jain fail to teach where the module comprises a smart card, but argues that Ausems does (citing column 4, lines 40-50 of Ausems). The Examiner argues that it would have been obvious to one of ordinary skill to use a smart card in use with the PDA or telephone in order to more easily have saved data for use in other locations since the smart card is just a way of saving and transmitting personal settings and data to other PDA's or telephones.

The Applicants respectfully disagree with this assessment. Applicants' smart card is not merely for the use of saving and transmitting personal settings as argues by the Examiner but is utilized to permit at least one hand held device (which is not taught by Anderson and/or Jain) to receive said data representing one or more video perspectives captured by one or more venue-based video camera, wherein said at least one hand held device is adapted for use with such a module which happens to be implemented as a smart card. Such claim limitations are taught by claim 39 together with those of claim 40. A similar argument applies to claim 43. Ausems does not provide any teaching of using a smart card that permits a hand held device (as defined by Applicants' invention) to receive video information, including multiple perspectives thereof.

Regarding claims 45 and 50, the Examiner argues that many of the limitations have been addressed in the above rejections. The Examiner admits that Anderson and Jain fail to specifically teach that the hand held device may be a personal digital assistant or a wireless telephone. The Examiner asserts, however, that it would have been obvious to one of ordinary skill to use alternate hand held

devices in the forms of a personal digital assistant or a wireless telephone in order to make more use of the wireless network being used at the venue-based entertainment since this is just the difference between being able to wirelessly transmit to the hand held device and being able to transmit to a personal digital assistant or a wireless telephone, which are both known to be able to receive transmission of video data.

Regarding claim's 46-48 and 51-53, the Examiner argues that all of the limitations have been addressed in the above rejections.

Regarding claims 49 and 54, the Examiner argues that many of the limitations have been addressed in the above rejections. In addition, the Examiner argues that Anderson teaches wherein the removable module further comprises a plurality of tuners, or modulators, integrated with the at least one hand held device (citing column 4, lines 31-47 and Figure 2 of Anderson).

The Applicants respectfully disagree with this assessment and note that the arguments presented above against the rejection to claims against the rejection to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) based on Anderson and Jain apply equally to the rejection to the rejection to claims 40, 43 and 45-54 under 35 U.S.C. 103(a) based on Anderson, Jain and Ausems. The Applicants submit that column 4, lines 40-50 of Ausems cited by the Examiner is irrelevant in light of the fact that Anderson, Jain and Ausems, individually or in combination with one another do not teach, suggest or disclose a hand held device as taught by Applicants' invention as indicated above. Because Anderson, Jain and Ausems do not teach such a hand held device, it would be improper to combine Anderson, Jain and Ausems as a basis for arguing that the combination thereof teaches all of the claim limitations of claims 40, 43 and 45-54, including any claims upon which claims 40, 43 and 45-54 depend.

Anderson, Jain, Treyz

The Examiner rejected claims 44 and 55 under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Jain and in further view of Treyz et al., "Treyz" (US Patent No. 6,526,335).

Regarding claim 44, the Examiner argues many of the limitations have been addressed in the above rejections. The Examiner admits that Anderson and Jain fail to teach wherein the at least one server is adapted for processing at least one concession order as a part of the service request, but argues that Treyz does (citing column 2, lines 51-64). The Examiner argues that it would have been obvious to one of ordinary skill to order a concession with the hand held device since other such forms of advertisements and promotions are to be displayed on the hand held device as well since this is just transmitting another signal through the wireless network for an order through a retailer. The Examiner asserts that this would just be transmitting a request back through the network to obtain an order.

Regarding claim 55, the Examiner argues that many of the limitations have been addressed in the above rejections. The Examiner admits that Anderson and Jain fail to specifically teach a wireless transmitter for transmitting the data in packets through a wireless network to the at least one hand held device, but argues that Treyz does (citing column 62, line 61 to Column 63, line 11 of Treyz). The Examiner asserts that it would have been obvious to one of ordinary skill to transmit the data in packets through the wireless network since this is just the method in which the data is transmitted to the hand held devices through the wireless network.

The Applicants respectfully disagree with this assessment and note that the arguments presented above against the rejection to claims against the rejection to claims 1-4, 6-10, 12, 13, 15, 18-23, 26, 27, 31, 32, 35, 37, 39 and 56 under 35 U.S.C. § 103(a) based on Anderson and Jain apply equally to the rejection to the rejection to claims 44 and 55 under 35 U.S.C. 103(a) based on Anderson, Jain and Treyz. The Applicants submit that column 2, lines 51-64 and column 62, line 61 to Column 63, line 11 of Treyz cited by the Examiner are irrelevant in light of the fact

that Anderson, Jain and Treyz, individually or in combination with one another do not teach, suggest or disclose a hand held device as taught by Applicants' invention as indicated above. Because Anderson, Jain and Treyz do not teach such a hand held device, it would be improper to combine Anderson, Jain and Treyz as a basis for arguing that the combination thereof teaches all of the claim limitations of claims 44 and 55 including any claims upon which claims 44 and 55 depend.

V. Conclusion

The Applicants have amended claim 3, 39, 42, 46 and 51 to more particularly claim the invention with respect to securing transmitted signals. It is believed that such amendments do not constitute new matter, but are rather clarifying in nature. Support for the amendments is within the specification, including the drawings (e.g., Fig. 3), and the specification adequately enables such amendments.

In view of the foregoing discussion, the Applicants have responded to each and every rejection of the Official Action, and respectfully request that a timely Notice of Allowance be issued.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call the Applicants' attorney at the below-indicated telephone number.

Respectfully submitted,

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